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On pre-conventions as 'normative facts'

Luís Duarte d'Almeida

- 1 Bruno Celano's ambitious paper opens with the following statement:

I will argue that there are entities that can be plausibly called 'conventions', which are neither mere *de facto* regularities, nor rules (norms), but that – in a sense to be specified – have both the character of *de facto* regularities, as well as a normative character: they are, literally, 'normative facts'. (Celano 2016: 9)

- 2 This passage contains several distinct claims. First, we have what sounds like a metaphysical claim: that "there are entities" of a certain sort. Second, a negative claim about these putative entities: that they are not *de facto* regularities, and that they are not rules or norms. And third, a positive claim that also helps readers to understand the second claim more clearly; it is the claim that those entities have *both* a normative character *and* the character of *de facto* regularities: which must mean, I gather, that what I called the 'second' claim is really to be understood as the claim that those entities are neither *de facto* regularities *as opposed to norms*, nor norms *as opposed to de facto regularities*.
- 3 Throughout his paper, Celano does not carefully differentiate among these claims. But not all arguments that might justify the first claim would also support the second or the third. The claims are also not all equally important. The third is philosophically interesting, and Celano knows it. That is probably why he pitches his essay as an attempt to show that the 'entities' he is concerned with, his 'pre-conventions', are entities of a "peculiar sort" (as he says in his abstract) that somehow straddle the commonly accepted distinction between facts and norms (Celano 2016: 9–10). That is a bold thesis; but it is one for which Celano gives us no good argument. As to the first and the second of his claims, Celano does mention some considerations that support them; but the claims themselves are not particularly striking, and Celano does not purport to have fresh arguments in their favor. Overall, then, the substantive views that Celano wants to press in this regard – I leave to one side his discussions of Bourdieu, Foucault, Wittgenstein, and other

authors – come across as either unpersuasive or relatively ineffectual; or so I will suggest in this commentary.

- 4 Here is how Celano describes the kind of 'entities' he has in mind:

[T]he entities that I am trying to isolate are 'tacit' conventions, 'tacit' in the sense of automatic: regular convergent behavior that, while not a biological regularity (e.g.), is spontaneous, unreflective, fast, fluid, effortless. (Celano 2016: 12)

- 5 He also speaks of such entities as "embodied" conventions (Celano 2016: 13), "conventions – to use yet another metaphor – that are part of the body, in the flesh, so to speak, and have become as natural as breathing, a 'second nature'" (Celano 2016: 12). The idea becomes clearer when Celano illustrates it with examples of actions such as riding a bike, or swimming in a certain style, as performed by people who have learned and acquired the relevant skills to the extent that they are now able to do such things automatically. The agents' learning processes may have at first required a conscious grasp of, and an intentional effort to follow or apply, certain rules; but there comes a point at which, as Searle puts it in a passage that Celano quotes, those rules "recede into the background", and the body "takes over":

As the skier gets better he does not internalize the rules better, but rather the rules become progressively irrelevant. The rules do not become 'wired in' as unconscious intentional contents, but the repeated experiences create physical capacities, presumably realized as neural pathways, that make the rules simply irrelevant. 'Practice makes perfect' not because practice results in a perfect memorization of the rules, but because repeated practice enables the body to take over and the rules to recede into the Background . . . On my view, the body takes over and the skier's intentionality is concentrated on winning the race. (Searle 1983: 150–151)

- 6 Searle is offering an account (an alternative to what he calls the "traditional cognitivist view") of how it is that we come to acquire and develop such physical skills and to perform many actions, as we do, automatically: "repeated practice and training in a variety of situations eventually makes the causal functioning of [explicit] representation [e.g. of verbal instructions of what one is supposed to do] unnecessary in the exercise of the skill" (Searle 1983: 151). Searle's point, then, is an explanatory point about how such types of behavior come to emerge, and about the role – the causal role – played by rules, and by rule-learning, in that process. It also seems clear that the relevant rules – the rules of skiing or swimming – are, for the most part, as Celano points out, arbitrary, and accepted by certain groups of people who regularly engage in the relevant activities; they are therefore 'conventional' in one sense of the word.

- 7 Such conventions that have receded into the "background of our activities and thoughts", and which, "passing usually unnoticed, delimit their [i.e. our activities' and thoughts] spaces", are what Celano proposes to call 'pre-conventions' (Celano 2016: 19). So do pre-conventions "exist" – which is Celano's first claim? There do seem to be many actions which are (a) not biological regularities, (b) the outcome of learning processes, and (c) actions that we do come, with practice, to perform automatically and spontaneously. It also seems plausible to think that arbitrary conventions may and do feature prominently in such learning processes, and that, with practice, such conventions do "recede" into the "background" and come to pass "unnoticed". So the answer would appear to be that, yes, pre-conventions do exist. What I do not see is that by pointing this out, Celano is adding anything very much to the points already made by Searle and others in the works that he quotes.

- 8 But that is not, of course, the full extent of Celano's claims. He does not merely say that pre-conventions exist; he suggests that pre-conventions enjoy a distinctive metaphysical status not easy to square with the idea that there is an exclusive divide between (non-normative) facts and norms. His insistence that a pre-convention is an "embodied norm" (Celano 2016: 18, 29), or his description of pre-conventions as "embodied . . . normative facts" (Celano 2016: 12) and also as "abstract entities" which are nevertheless "*in the body*" (Celano 2016: 14), all seem meant to carry precisely that suggestion across: the suggestion that pre-conventions are metaphysically "peculiar entities" in which body and rule, fact and norm, are irreducibly entwined.
- 9 It seems to me, however, that Celano is too quick to run together (sometimes in the same breath) two different distinctions. One is the distinction between *de facto* regularities and rules; another is the distinction between (non-normative) facts and norms. Consider the following passage:
- Philosophers usually distinguish, and with good reason, between rules and regularities, between facts and norms. In each pair, the two concepts are thought of as mutually exclusive. The distinction is intuitive, and it appears, at first sight at least, incontrovertible. (Celano 2016: 9)
- 10 Although he does not state it in so many words, Celano comes across as meaning to imply that the existence of pre-conventions upsets the view that these two distinctions are indeed mutually exclusive. Remember Celano's opening paragraph: he asserts that pre-conventions have *both* the character of *de facto* regularities, *and* normative character. Taken literally, this sounds intriguing – and Celano does want us to take him literally: pre-conventions, he says, "are, literally, 'normative facts'". (Oddly, the adverb clashes with his use of quotation marks around "normative facts".) But what does he give us by way of argument to support such a view? Not very much, as far as I can see. He does avail himself of several metaphors, and he is particularly fond of Searle's "the body takes over" phrase. But he goes on, I think, to mischaracterize Searle's point:
- The central idea is aptly captured by the phrase *the body takes over*. What the body is doing, from now on, is not a mere *de facto* regularity, but something that is in between a norm and a regularity. (Celano 2016: 15)
- 11 This is dangerously equivocal. It may be true that what the body is doing once the rules "recede into the Background" is not a mere *de facto* regularity. But it does not mean that what we now have is a non-factual, or not wholly factual, 'entity'. *De facto* regularities are facts, not norms; but it does not follow that every 'entity' which is not a *de facto* regularity is not a factual 'entity', or that it must fall somewhere "in between a norm and a regularity". Celano sometimes makes it sound as if what matters is that, when activities such as skiing or marching or swimming do become, with practice, "second nature", one has embodied the *correct* way of doing such things (Celano 2016: 14–15). But the correct front crawl stroke – not any token stroke, but the abstract action-type – is something one can identify regardless of whether one ever tries to learn how to swim the front crawl; and it will not become an 'entity' of a different sort (e.g. an "embodied diagram": Celano 2016: 14) simply because we have come, through learning and practice, to become proficient at swimming the front crawl correctly to the point that it became "second nature". (It is also possible for us – even all of us – to become unintentionally proficient at swimming the front crawl *incorrectly*. 'Practice' may make us 'perfect' at doing the action we practice; but the action we become perfect at doing may not be the perfect action – the 'correct' action.)

- 12 It may be true that, as Searle points out (and as Celano points out that Searle points out), participants in institutional activities develop tendencies, dispositions and skills that are “functionally equivalent” to the systems of rules of the relevant institutions:

The basic idea /.../ is that one can develop, one can evolve, a set of abilities that are sensitive to specific structures of intentionality without actually being constituted by intentionality. One develops skills and abilities that are, so to speak, functionally equivalent to the system of rules, without actually containing any representations or internalizations of those rules. (Searle 1995: 142)

- 13 But this, again, despite what Celano suggests, is not the same as saying that “here /.../ entities intermediate between rules and regularities, embodied norms /.../ emerge” (Celano 2016: 29). We should avoid conflating (a) claims about *how* it is that pre-conventions may come to emerge (and the role that arbitrary rules may play in that causal process), (b) claims about the “functional” role of pre-conventions, and (c) claims about their metaphysical status.

- 14 My point, to put it differently, is that there is no sense – let alone its literal sense – of Celano’s “normative fact” phrase in which it can both plausibly refer to pre-conventions, and track a kind of ‘entity’ whose existence would be incompatible with the standard view that there is a mutually exclusive distinction between (non-normative) facts and norms. Or if there is, Celano has said nothing to show that that is the case. Since he does strongly come across as thinking that pre-conventions are indeed ‘normative facts’ in a suitably robust sense of the phrase, it seems to me that he has failed to discharge his argumentative burdens. And if, on the other hand, this is not quite the sort of thesis Celano wanted to defend, then he should not only have been more careful to avoid suggesting otherwise, but also much more precise about what it is that he takes a ‘normative fact’ to (‘literally’) be.

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ABSTRACTS

In his essay “Pre-Conventions: A Fragment of the Background”, Bruno Celano seems to endorse three claims about what he calls ‘pre-conventions’: (a) that such ‘entities’ exist; (b) that they are neither rules nor *de facto* regularities; and (c) that their ‘character’ is at once factual and

normative: that pre-conventions are “literally, ‘normative facts’.” I suggest that (a) and (b) are not particularly striking claims, and that Celano’s case for (c) is unpersuasive.

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